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Legal tender as a factor in  
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Chicago

1898

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NATIONAL SOUND MONEY LEAGUE

PAMPHLET H.

LEGAL TENDER

AS A

FACTOR IN MONEY

BY

EDWARD ATKINSON

Of Boston, Mass.

EST. 1898

PUBLISHED BY THE

NATIONAL SOUND MONEY LEAGUE

HEADQUARTERS:

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1898

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## LEGAL TENDER AS A FACTOR IN MONEY.

BY EDWARD ATKINSON, OF BOSTON, MASS.

[In this able, logical argument, Edward Atkinson of Boston, Mass., the eminent economist, who has been nearly all his lifetime engaged in active business, deals with the part legal tender plays in connection with money. He refers to the origin and function of money, and explains tersely the purpose which the advocates of what is called bimetallism have in view. The address contains much sound, practical information, which business men of all parties, or of no party at all, should know. Mr. Atkinson, in fact, provides an epitome of strong arguments for the gold standard and against the free coinage of silver.—E. V. Smalley, General Secretary.]

[Address delivered at the National Currency Convention, Omaha, Neb., Sept. 13th, 1893.]

### MR. PRESIDENT, LADIES AND GENTLEMEN:

Good money needs no act of legal tender to secure its acceptance. Only bad money calls for an act of force or legal tender to make people take it whether they want it or not. Under acts of legal tender creditors possess no rights which debtors are bound to respect. Hence it follows that by way of acts of legal-tender credit, which is the life of commerce, may be so restricted as to bring about a complete paralysis of industry. This was what occurred in 1893 under the threat of the free coinage of silver at the ratio of sixteen of silver to one of gold coupled with a force bill known as a legal-tender act. Free coinage is nothing but a pretext. Coinage is the manufacture of round discs of metal certified in weight and quality by the stamp of a government. Gold, silver or copper may be freely coined to any extent to meet the demand of those who may bring bullion to the mint to be manufactured into coin. Yet no one would be harmed. The vice of the policy is hidden under the name of legal tender. Legal-tender acts were born in fraud and have been nursed in corruption. This is the record from the dawn of financial history to the present day, with one slight useful variation hereafter to be referred to. Legal-tender acts have been intended for one of two purposes:

1. They have been acts of absolute rulers or despotic governments intended to cheat the people and to defraud them of their earnings.

2. Or else they have been acts for the collection of a forced loan limited to the conduct of war until the Bland and Sherman acts were passed for the collection of a forced loan for the purchase of the silver bullion now resting in innocuous desuetude in the vaults of the treasury of the United States.

### The Function of Money.

Money is necessary to the conduct of commerce. Commerce is an exchange of products or services. In the process of trade one thing is exchanged for another thing; not something for nothing. What are these things? They are the goods which constitute the necessities, comforts and luxuries of life, food, fuel, clothing and shelter. By the division of labor the quantity or abundance of these things is increased. By exchange or commerce all get more than each could gain if he tried to supply his own wants with his

(3)

own sole labor or effort. The first exchanges were doubtless made by what is called barter, or giving one thing for another in direct traffic, but that way could not work long. Two men met, each having something that he did not want, yet neither wanting what the other had to spare. Out of these conditions must have arisen the invention of money or of a medium of exchange. Who invented money? No one knows. It rests among the greatest inventions of the world, with the wheel, the making of fire, the spinning of a cord and many other arts. The oldest records of commerce are those of the Assyrians, Babylonians and Egyptians. These nations used different kinds of money, sometimes made of gold, sometimes made of silver; both metals passing by weight. They also used oxen, cows, sheep, asses and other cattle. In other periods among other races of men money has been made of copper, bronze, iron and other metals. Less advanced nations or tribes have used shells, leather, skins, stock-fish, salt and other articles. In all cases the subject chosen for money or a medium of exchange has been one in constant demand for use or for ornament. Even some advanced states while still very poor, like the colonies of America, have within historic times made use of the Indian wampum, of tobacco and of leaden bullets for purposes of money.

Money was invented to meet the necessities of trade before there was any legislation or any law in the sense in which that word is now used. It came into use by custom and out of customs originated decrees, ordinances and laws. Metallic money had almost wholly displaced cattle and all other kinds of money among the advanced nations of the world before coinage itself existed; lumps or nuggets of metal or quills of gold sand passing by weight as a medium of exchange. Coinage followed, having been invented about 700 B. C. in Lydia. A natural alloy consisting of about eighty (80) per cent gold and twenty (20) per cent silver named "electrum" had been found in the rivers of Asia Minor. This was converted into lumps or flattened discs of a somewhat uneven shape, but of an exactly even weight and quality, upon which a rude stamp was first placed certifying both weight and quality. Two hundred years later coinage passed over into Greece, where pure gold was found in the streams. It was established by Philip of Macedon and the gold sester or unit of value weighing one hundred and thirty-five (135) grains, one of which I have attached to my watchchain, became the standard of value in the then known world, remaining true to its name and quality for many generations. It circulated and performed its function of money before any decree or law of legal tender had even been conceived. In fact, such an act of force could not be conceived except in fraud and for the purpose of debasing the coin. So long as the coin was true in weight and quality no force bill could ever have been called for.

#### **Commerce is a Double Barter.**

The names of all the earliest coins as well as many of the later ones are definitions of weight. Every contract to sell or deliver goods in exchange for money so long as coin remained true to its name was an exchange or barter of a measured quantity of goods for a measured weight of metal embodied in a coin. Every contract for the purchase of goods for money was a barter of a measured weight of metal for a measured quantity of goods. We shall never solve the difficulties and confusion of our coinage and currency until we come back to this true conception of a double barter of one thing for another. All trade or commerce

consists in a double barter, an exchange of goods for coined money or for the promise of coined money convertible on demand coupled with or followed by an exchange of such coined money or its representative for other goods. The money merely serves as a medium of the exchange of goods for goods. A rich nation which has plenty of goods to exchange will always have plenty of good money with which to do the work if it does not foul its own nest and debase its own coinage.

That system of a double barter by weight and measure still exists in one of the most extensive departments of trade, to-wit: in nearly all international commerce. International trade is free from any act of force or legal tender. The monetary unit is pound sterling. That is a measure of weight. It is a designation of 113.0016 grains of pure gold. There is no lawful coin issued from the mints of Great Britain named pound sterling. The sovereign, eleven-twelfths fine, contains 113.0016 grains of pure gold with a portion of alloy added to harden it and when demands are made for any considerable number of pounds sterling they are liquidated by weighing out sovereigns containing the corresponding measure of pure gold. This weight measure of pure gold named pound sterling has become the standard or unit of nearly all international commerce by the free choice of the merchants and bankers of all nations and states. This choice has come about by a process of natural selection, free of any compulsion or force of statutes or treaties of legal tender. This single gold standard exists without any regard to the monetary systems or laws of the several countries whose goods are exchanged in the course of international trade. If any farmer of the West prefers silver to gold he can sell his wheat, his corn, or his provisions for a given weight of silver. None is so foolish as to take such poor money or bad money when he can get good money.

In the last fiscal year this barter of American cotton, wheat and other products of our farms amounted to over eight hundred million dollars' (\$800,000,000) worth in gold coin. Our exports must have represented from sixteen (16) to twenty (20) per cent of the entire product of our farms. That measure of gold, \$800,000,000, was placed at our credit to be drawn upon either in specie or in payment for our tea, coffee, sugar, spices and other imports, many of these imports coming from silver-using countries. By so much as the gold coin possessed a greater purchasing power than silver coin did we gain in return for our exports a larger quantity of the tea, coffee, sugar, and other foreign imports which we needed.

#### **What Bimetallism Amounts to.**

The advocates of what is called bimetallism propose to confer upon other nations by treaty the power to force upon our farmers silver coin in place of gold coin at a ratio by weight of fifteen and a half or sixteen ounces of silver to one of gold. If we want silver we can buy twice as much. Yet we have been asked to confer upon the owners of silver mines which are mostly British a power to force silver upon us at a ratio of sixteen of silver to one of gold with almost a certainty that the market ratio which is now about thirty-four to one may soon become fifty to one. Silver is more and more becoming the secondary product of lead, copper and zinc mines which pay a profit on those metals, in many cases the silver becoming a secondary product almost free of cost. It seems to me that the force of folly could no further go and that the assumption of the promoters of this policy is based upon the supposed ignorance of the farmers of the great West and of the South as

to what their true interest really is. The proposal is something almost grotesque in its audacity. The farmers of this great Mississippi valley, eighty (80) per cent or more of whom are now free of any mortgage whatever, are the creditors of the world. The world must have their products and they hold demand checks upon the reserves of every bank and banker in the civilized world with the right to demand all the money of the best quality made of gold that is necessary to sustain their credit and to conduct their work.

I have said that the goods and the gold of England and of the United States are exchanged in Africa where cows or cattle are still the money in use among great numbers of people. They are exchanged in the frozen regions of both continents where furs and skins are still in use as money among the natives. They are exchanged in China where uncoined silver passing by weight is the customary standard, and they are exchanged in countries like the Argentine Republic where depreciated paper promises have been forced into use by acts of legal-tender in place of coin. Any farmer who wants to exchange his product for the cow or cattle market of Africa, for the skins and fur money of Nova Zembla, for the uncoined silver of China, for the depreciated paper of the Argentine Republic or for the silver dollars of Mexico can do so. What a fool the farmer would be who subjected himself by any act or treaty of legal tender to the danger of having either kind of these bad kinds of money forced upon him.

In each country whatever is imported or exported is brought to the standard or measure of a fixed weight of pure gold under the name of pound sterling. Why? For the simple reason that in the progress of commerce by nature selection gold has proved to be the safest, surest and least variable of all the substances or things that have from age to age served the purposes of money or of the medium of an exchange. The gold standard exists de facto, not by means of statute law or by treaty, but in spite of every effort of legislators to maintain a dual or bimetallic standard.

This marks the parting of the ways and also indicates the error in the methods of the advocates of fiat money whether they proposed to make stamped silver or stamped paper serve the purposes of money by the fiat of law. They are at fault in what they call their principles and consequently their policy is bad.

#### The Gold Standard Dominant.

What is a principle? A principle is a rule of action governing human beings. That is the right definition to apply in this use of the word. It is a principle, an admitted fact, an admitted rule of action governing commerce among nations that in its conduct gold passing by weight has become the standard or unit of value. The so-called gold standard men of this country merely recognize this existing truth, principle or rule of action. Their purpose is simply to adjust the monetary legislation of this country to this admitted truth. The gold standard exists. It requires no act or treaty of legal tender. Gold is not and cannot be forced into use because no force of law is required to secure the acceptance of gold by weight in liquidation of any contract for the sale of any kind of merchandise anywhere. All merchants in all the great commercial states are glad to get the gold and will sell all and any kind of goods for it. It is to-day the only kind of world's money. It meets Cernuschi's definition of good money which will hereafter be given and it meets President Walker's definition of money which will

also be stated. It is the only kind of money that meets the conditions laid down by Cernuschi and Walker, the two most distinguished bimetallists of modern times.

On the other hand, the advocates of fiat money or of money which may, as they allege, be created by law without regard to what is called intrinsic value, try to resist this natural law of selection of the best and safest unit of value by bringing into force acts of legal tender. Every advocate of the unlimited coinage of silver either at fifteen and a half or sixteen to one—every so-called bimetallist and every greenbacker or promoter of paper money—holds that money is the creation of law and that no coin of any kind even if made of gold can do the work of money except by force of acts of legal tender. It is useless to attempt to analyze the confused and contradictory statements to which these advocates of fiat money are obliged to resort in the effort to sustain this untenable position. They have evidently never given any attention to the history of coinage or currency. They pay no regard to the fact that the vast volume of international commerce is now conducted in terms of money without any act or treaty of legal tender.

I therefore submit as fundamental propositions, good money needs no act of legal tender. Bad money only requires the force of a legal-tender act. Good money which is not of legal tender drives bad money out of use except where such bad money is forced into use by legal tender. Bad money which is of legal tender drives good money out of use in the country to which such legal-tender acts apply.

#### What is Good Money?

In order to make these propositions plain we must define:

1. What is money?
2. What is good money?

President Francis A. Walker's definition of money is given in the following terms:

"That which passes freely from hand to hand throughout the community in final discharge of debts and full payment for commodities, being accepted equally without reference to the character or credit of the person who offers it and without the intention of the person who receives it to consume it or to enjoy it or apply it to any other use than in turn to tender it to others in discharge of debts or payment for commodities."

Henri Cernuschi defines good money in the following terms:

"That coin of which the bullion is worth as much after it is melted as it purported to be worth in the coin is good money. The coin of which the value of the bullion after it is melted is not the same is not good money."

It will be remarked that President Walker's definition of money leads conclusively to the single gold standard although he himself tried to evade the logic of his own definition. He says anything is money which is freely accepted. The only kind of money which is freely accepted in all countries and at all times is coin or money made of gold. The force of a legal-tender act is not required to assure the free acceptance of gold coin. It is required to force the acceptance of every other type of money whether made of silver or of paper.

Cernuschi's definition of good money leads directly to the single standard. Coin made of gold is the only coin in existence which is worth as much after it is melted as it purports to be worth in the coin. Neither of these writers accepted the absurd idea that value can be created or imparted by law to

anything. Let they were the two most able and conspicuous of the recent advocates of bimetallism; in fact, about the only ones who are entitled to any intellectual standing in this discussion.

Wherein were they misled? While they did not hold the false conception that men can be compelled to value or esteem a thing by act of law, they held that by making a silver coin a full legal tender at a fixed ratio by weight with gold such a demand or use would be created for silver bullion to be converted into silver money as would cause silver bullion itself to be valued or esteemed at the ratio fixed by law without any regard to its relative cost of production. Both these writers and all other advocates of the substitution of silver for gold or for the joint use of silver with gold at a fixed ratio wholly ignore the relative cost of production, the relative use in the arts and all the other common factors by which the prices of all other things are governed.

#### The Free Coinage Fallacy.

In order to expose the fallacy and to develop the falsity of the proposal to open the mints of this country to the free coinage of silver at sixteen to one, it only needs an assent to that proposal. Coinage is the name of a process of manufacturing. It consists in converting bullion of a given quality into discs of metal of a given weight. Upon these discs the stamp of the government is put as a certificate of the weight and of the quality whether the coin be made of gold, silver, copper or nickel. That definition exhausts the word "coinage." I have offered to meet the proposal for free coinage many times to that extent, limiting the proposed act of coinage. This proposal is invariably refused. "No," is the reply, "these coins both of gold and silver must be named dollars and we demand an act of legal tender or a force bill by which creditors shall be forced by law to take whatever coin the debtor may tender." Messrs. Bryan, Bartine, Warner, Weaver, and all their associates in fact, take the position that creditors possess no rights which debtors are bound to respect. They in fact propose to deprive both parties who desire to make a free contract of that right and without their force-bill or act of legal tender they admit that they cannot attain their true purpose. What has been the result? When there appeared to be a remote danger of such acts of force passing congress men who were in possession of capital rightly refused to become creditors. They rightly took the ground that the business men and the states by whom and in which such views were held were not fit to be trusted. Hence came an almost total collapse of credit, a disastrous and unnecessary fall in prices, coupled with a complete paralysis of industry. That such would be the result had long been foreseen, predicted in print and in correspondence, while prudent men in every state and in every branch of industry carefully prepared themselves for the protection of their property against spoliation by the force of law to the best of their ability. From that disaster we are but now emerging. What are the pretexts in support of this effort to put bad money upon the farmers of the West, the cotton growers of the South and the manufacturers of the East?

#### The Question of Prices.

I thought it might bring this discussion to a closer point if briefs were exchanged in advance. I have received but one in return for my own and that comes from my honest, sincere and grossly misguided friend, General A. J. Warner. I find his brief confused, illogical and conflicting. There is

but one point to which I shall undertake to make any reply. He says that "The controlling purpose in regulating a paper currency should be to secure the greatest possible stability of value, or, in other words, stability of prices." It is useless to point out how utterly every effort to work these ends by the issue of paper money has failed because our friends of that way of thinking appear to have become incapable of dealing with the facts. I will only take up the final object named, to-wit: The purpose to assure stability of prices. What prices? At what date? At what standard? For what period of time? Shall we go back two hundred years, to the end of the seventeenth century, when questions of currency and money were taken up by the able hands of Lord Somers and Sir Isaac Newton? If so, then it is our business before undertaking to establish stability of prices to promote an immense reduction from the prices of the present day. Shall we take the prices of this country during the early years of the Revolution, when the Continental paper currency nearly defeated the patriot cause, when the farmers and merchants carted their goods away from Washington's camp at Valley Forge, leaving his troops half-starved and half-naked lest they should be forced to take payment in paper money of full legal-tender?

Shall we take the prices in this country when the combined effect of war, of the forced loan collected by means of legal-tender paper money and other malignant influences carried prices to the highest point in recent years while at the same time vastly reducing the purchasing power of wages? Shall we establish stability of prices on the basis of that evil time when by force of legal-tender paper money the rich grew richer at the cost of the poor, the only period in modern history when those evil conditions have existed in this country? Or shall we take the abnormally depressed prices of 1893, when credit had been almost destroyed by the fear of fiat money? Or shall we take the present prices on a gold standard and make an effort to prevent them from either rising or falling, no matter what may be the influence of new inventions, new methods and new wants? What say the workmen of this effort to give stability of prices? While the prices of goods have been reduced during the last fifty years in greater or less measure, according to the conditions, the rate of wages has been steadily advancing. Will the fiat money men avow a purpose to stop the advance in wages? Whether avowed or not, it would be the sure effect. Not only would the advance in wages be stopped, but wages would be reduced, while prices would be advanced and the cost of living would be augmented, as it has been at every approach toward the success of the cheap money advocates in recent years and at every time in every country throughout economic history in which any of these efforts have been incorporated in the law of any country. The whole effort to regulate prices is as evil and as great a wrong as the effort is to force bad money upon an unsuspecting community.

#### The Vice of Legal Tender.

Time will not suffice for me to enter upon a historic review of the inherent vice of legal-tender. It appears to have been invented in Greece when Solon uttered a decree reducing the silver in the coin known as the drachma by twenty-seven (27) per cent, making it a penal offense for any one to refuse to accept the debased coin in full liquidation of debts previously incurred. From that time throughout the history of every European country, notably England in the seventeenth century, or even from the time of Edward I. down through the reigns of Henry VIII. and Queen Elizabeth legal-tender acts or

decrees have been adopted by despotic governments in order to cheat the masses of the people and to take from them the reward of their labor without return. Such has been the record throughout Europe, England and Scotland included. Other acts like our own acts of legal-tender have been for the purpose of collecting a forced loan in the conduct of war or for the purchase of a useless stock of silver bullion. The only useful function of legal-tender acts has been to keep an under-weighted subsidiary coin of limited coinage from passing out of the country to the inconvenience of the people when some change in the relative value of silver and gold might have caused an export.

I do not propose to do away with acts by which evidence is recorded and perpetuated of the effort of a debtor to liquidate his obligation or to deliver the goods which he has contracted to deliver. That is a very simple and relatively unimportant function of laws relating to the tender either of goods or of money.

I do not see that there can be any rightful objection to the coinage of discs of gold under one name and to the coinage of discs of silver under another name, thus giving every member of the community the opportunity to make use of both metals or either at his own option or as any two in a contract might be able to agree. The vice of legal-tender is in giving the privilege to one party in a contract to put a debased coin upon the other while depriving the other party of any choice in the matter. That is a fraud; a fraud enforced by statute. It leads to the discredit of the law. This verdict may be rendered in the stern words of Pelatish Webster, the patriot merchant of Philadelphia, who resisted the issue of the Continental legal-tender paper money and who rendered the verdict after it had ceased to imperil the patriot cause.

#### A Patriot Merchant's Words.

"Thus fell, ended and died, the Continental currency, aged six years; the most powerful state engine, and the greatest prodigy of revenue, and of the most mysterious, uncontrollable, and almost magical operation ever known or heard of in the political or commercial world; bubbles of a like sort which have happened in other countries, such as the Mississippi scheme in France, the South-Sea in England, etc., lasted but a few months, and then burst into nothing; but this held out much longer, and seemed to retain a vigorous constitution to its last, for its circulation was never more brisk and quick than when its exchange was 500 to 1; yet it expired without one groan or struggle; and I believe of all things which ever suffered dissolution since life was first given to the creation, this mighty monster died the least lamented.

"Yet I hear that some folks are preparing to dig the skeleton of it out of the grave where it has quietly rested nine years, that we may have the pleasure of wasting a million or two upon its obsequies.

"If it saved the state it has also polluted the equity of our laws; turned them into engines of oppression and wrong; corrupted the justice of our public administration; destroyed the fortunes of thousands who had most confidence in it; enervated the trade, husbandry and manufactures of our country; and went far to destroy the morality of our people; after all this, I wish it might be suffered to lie where it is, in a state of quiet oblivion, yea, perfectly forgotten; for I think that every remembrance of it must be mixed with bitterness."

Again, when resisting the efforts of the fiat money men of our Revolutionary times to further debase the currency of the country Webster said:

"Our finances have for five years past been under the management of fifty men of the best abilities and most spotless integrity that could be elected out of the thirteen states; yet they are in a ruined condition. We have suffered more from this than from any other causes of calamity; it has killed more men, pervaded and corrupted the choicest interests of our country more and done more injustice than even the arms and artifices of our enemies."

Strange that these lessons of history cannot be learned. Strange indeed that these futile fallacies of fiat money, this ignorance of the simplest principles of monetary science and this perversion of the powers of public law to purposes of private gain should recur again and again with each generation, making it necessary to repeat and enforce the truth which I have attempted to present in this essay.

The vice of legal tender is that it deprives men of their right to free contract and that it enforces fraud upon an unwilling and ignorant community whether its members desire to cheat each other or not. It is a bar to integrity on the part of the nation and its people alike. The sincerity of its promoters can only be sustained at the expense of their repute for common sense.

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